

Testimony Regarding Substitute for House Bill 5463
Great Lakes and Environment Committee
Rep. Rebekah Warren, Chair

Presented by
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Testimony Regarding House Bill 5463

Introduction

Madame Chairperson and Committee Members, we thank you for the opportunity to submit testimony today regarding the substitute for House Bill 5463. We do so on behalf of the board, staff, over 2,100 individuals and businesses, and over 30 lake association members of Tip of the Mitt Watershed Council. By way of introduction, the Watershed Council was founded in 1979. We are a nonprofit organization whose purpose is to protect, restore, and enhance water resources, including our inland lakes, rivers, wetlands, ground water, and the Great Lakes. We base our programs on sound science and thoroughly researched policy analysis.

First, we thank you all for your interest in this important issue. We understand how difficult the economic crisis is for Michigan and the challenges facing the legislature in the coming week. We appreciate your understanding that sending the Wetland Protection Program back to the federal government would only increase economic burdens for our state. The consequences would be significant for small businesses, individuals with wetlands on their properties, and home builders and developers. That is EXACTLY who will suffer if this program goes back, much more so than other sectors of the regulated community, though many of them will experience problems, as well. That is the reason we have worked all summer to keep this issue front and center

We fully recognize that there is room for improvement in this program, which is why we worked with Senator Birkholz and others to improve consistency and efficiency. On the other hand, we believe it is legitimate to remember that not only does DEQ approve **over 90%** of the permits applied for to work in wetlands in any given year, they also do it in 60 days, on average – a full month less turnaround time than is required by law. So, when you hear the horror stories on both ends of the spectrum, it is important to remember that those anecdotes **do not** represent what goes on in this program every day.

Between the bills in front of the committee today, we are opposed to SB 785 and support the substitute for HB 5463.

Reasons for support

This substitute bill is extremely important because, among other things, it corrects provisions associated with the feasible and prudent alternative analysis that would limit the DEQ by not allowing them to be more restrictive than federal law. We strongly object to this limitation, and we strongly support the substitute for this very important correction.

States have the right to be more protective than the federal government, whose environmental laws typically are very general because they have to provide guidance to a large and geographically diverse nation. These federal laws provide the floor, not the ceiling, and this is especially evident in our wetland program.

The entire point of administering the federal program is so that we can determine what is best for our environment and citizens – including the convenience of the one-stop shopping aspect that allows applicants to obtain several permits related to several laws in one application process for one fee. Additionally, our program provides more regulatory stability, because it buffers us from what occurs at the federal level. Since Michigan's program relies on **state**, rather than federal law, it is not typically impacted by changes in the federal program.

The substitute also recognizes the importance of public input in the General Permitting process. It retains the ability that we have to allow public notice, if warranted, without increasing the cost to the applicant. It also makes it possible to track impacts to the resource.

Additionally, this substitute eliminates the overly burdensome processes included in SB 785 which only serve to cost the DEQ additional time and money, which makes no sense in our current economic environment.

The Future of the Wetland Protection Program in Michigan

The DEQ has seen funding erode since 2002, representing a **68 percent** reduction in general fund support over 7 years. Despite these cuts, they have managed to maintain a wetland program that is minimizing adverse impacts to the aquatic resources while still approving permits in a timely manner. This is, and should be considered, a success story.

As previously stated, we also recognize there is room for improvement. This solution was crafted to be the first step in a multi-year process and we are supportive of that concept. This substitute restores the basic agreements that will allow the Advisory Council to move forward in a positive way. Also, the EPA has reviewed our state's administration of the federal program and has required modifications from that audit. When they see the final bill, it is highly likely they will request additional changes in order for us to continue to keep the program at the state. We will have to come before you again to seek those additional corrections.

On behalf of the board, staff, and members of Tip of the Mitt Watershed Council, we thank you again for the opportunity to express our support of this substitute.